

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION  
THOMAS E. HALL, et al v. VITRAN EXPRESS, INC.  
Case No.: 1:09-CV-00800

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT,  
FAIRNESS HEARING, AND RIGHT TO APPEAR**

This is a proposed settlement with Vitran Express, Inc. ("Vitran"). This notice summarizes your rights. More information is available online at [www.vitranclassaction.com](http://www.vitranclassaction.com) or by calling (440) 930-4001.

**What Is The Case About?**

If you are a class member, Vitran obtained your criminal background report from a consumer reporting agency to make a decision about whether you would be hired. The suit alleges that Vitran violated your rights under a federal law – the Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681, *et seq.* (the "FCRA") – in the manner in which it used your criminal background check or other consumer report when you applied for a job or for other employment purpose.

**The case alleges three separate violations of the FCRA. One or more of these apply to you.** It is alleged that:

1. Vitran used background check consumer reports without first clearly and conspicuously disclosing to consumer's that their report would be obtained in a document consisting solely of that disclosure. You will be a member of this class whether or not there was anything incorrect with your report and whether or not Vitran ultimately hired you (15 U.S.C. §1681b(b)(2));

2. For consumers who had a negative report, Vitran was required to provide a copy of the derogatory background check and other disclosures required by the FCRA *before* it took any adverse employment action (15 U.S.C. §1681b(b)(3));

3. For most consumers who had a negative report and against whom Vitran then took an adverse employment action, Vitran was required to provide a notice *after* the adverse action that informed him or her of the FCRA right to request a free copy of the consumer report from the consumer reporting agency – with the agency's name and contact information – and the manner in which inaccurate information could be disputed (15 U.S.C. §1681m(a)).

The case is assigned to the Honorable Dan Aaron Polster.

**Why Did I Get This Notice Package?**

You have been identified as a class member from the records of Vitran and HireRight, the consumer reporting agency that provided your background check. We believe that all three of the violations explained above will apply to you.

According to Vitran's records, you are one of approximately 124 class members who incurred all three of the FCRA violations alleged in this case.

The Court sent you this Notice because you have a right to know about a proposed Settlement of a Class Action lawsuit, and about your options, before the Court decides whether to approve this Settlement. If the Court approves the Settlement and after objections and appeals are resolved, Vitran will distribute the benefits the Settlement allows.

**Who Are The Class Members?**

For the period from April 7, 2004 through March 13, 2009, all applicants who applied to Vitran for employment and were entitled to a disclosure of the fact that Vitran would procure a consumer report or cause a consumer report to be procured for employment purposes in writing in a document that consists solely of the disclosure. There is a subclass of individuals against whom Vitran took adverse action based in whole or in part on the consumer report without providing Pre-Adverse Action Notice and a sub-class of individuals who were declined employment without being provided an Adverse Action Notice. Excluded from the Settlement Class are any employees, officers, or directors of Vitran, any legal representatives, heirs, successors, assignees of Vitran, and any judge assigned to hear this action.

If you are not sure whether you are included in the Settlement, you can ask for free help. You can visit [www.vitranclassaction.com](http://www.vitranclassaction.com), or call (440) 930-4001.

**What Are the Settlement Benefits?**

You are entitled to a cash payment of at least \$2,100.00 because you will receive at least \$700.00 for each FCRA violation that applies to you and it has been determined that all three violations apply. This payment is *after* attorneys' fees and costs that may be awarded by the Court.

**How Can I Receive Benefits?**

You will automatically receive your benefit without doing anything if the Court grants final approval of the Settlement. If you take no action you will receive a check of at least \$2,100.00. Your interests as a member of the Settlement Class will be represented by the Class Representative and Class Counsel without charge to you. You will be bound by any judgment approving or disapproving the Settlement.

**When Will I Receive My Benefits?**

The Court will hold a hearing on August 31, 2011 at 12:00 p.m. to decide whether to approve the Settlement. It will take time for the Court to make its decision and for the settlement to become final. There could be delays if there are any appeals to the Settlement. Please be patient. You can check the website, [www.vitranclassaction.com](http://www.vitranclassaction.com) for updates on the case.

**What Am I Giving Up To Stay in the Class and Receive Benefits?**

Unless you exclude yourself, you cannot sue, or be part of any other action against Vitran regarding the legal issues in this case involving the disclosure and the notices that was to precede the adverse action. This means you will give up any right to sue Vitran

for any claims that you may have that are covered by the Settlement.

## How Do I Get Out Of The Settlement?

If you exclude yourself from this Settlement you do not receive any of its benefits. To exclude yourself from the Settlement, you must send a letter by mail saying that you want to be excluded from *Thomas E. Hall, et al. v. Vitran Express, Inc.*. Be sure to include your name, address, telephone number, and your signature. Also be sure to clearly identify your letter as a "Request for Exclusion from the FCRA Settlement Class." You must mail your exclusion request postmarked no later than August 10, 2011 to:

### Class Counsel

Dennis M. O'Toole  
Stumphauzer | O'Toole  
5455 Detroit Road  
Sheffield Village, Ohio 44054

### You cannot exclude yourself by telephone or by e-mail.

Unless you properly exclude yourself, you will remain a part of the Settlement Class and you give up the right to sue Vitran, for any claims covered by this Settlement.

## Who Represents You?

The Court has appointed Stumphauzer, O'Toole, McLaughlin, McGlamery & Loughman Co., LPA of Sheffield Village, Ohio and Consumer Litigation Associates, PC of Newport News, Virginia to represent you as "Class Counsel." You do not have to pay Class Counsel, or anyone else, to participate. You may hire your own attorney if you wish. However, you will be responsible for that attorney's fees and expenses. Thomas Hall is a Class Member like you, and has been appointed by the Court to be the "Class Representative."

## Will The Lawyers And Class Representatives Be Paid?

Class Counsel will ask the Court for attorney's fees and expenses of 30% of the approximately \$2,000,000.00 total settlement fund, which Vitran has agreed not to oppose. From this amount, Class Counsel will pay the reasonable fees and expenses incurred on behalf of the Class Members, together with the cost of notice and administration of the Settlement. Class Counsel will also ask the Court for a fee for the Class Representatives of \$10,000.00, for his services in this action, which Vitran will not oppose.

## How Do I Object To The Settlement?

If you do not request exclusion from the Settlement Class, you can object to any aspect of the proposed Settlement, by filing and serving a written objection. You must sign your objection personally, and it must be filed and served on the Court, Class Counsel and Defense Counsel on or before August 10, 2011, which is twenty-one (21) days prior to the Final Fairness Hearing. Moreover, your objection must contain a caption or title that identifies it as "Objection to Class Settlement in *Thomas Hall, et al. v. Vitran Express Inc.*" Your objection should also contain information sufficient to identify you, as well as a clear and concise statement of your objection, the facts supporting your objection, and the legal basis on which your objection is based.

If you intend to appear in person or through your own attorney at the Fairness Hearing, you must file a written notice of appearance with the Clerk of Court no later than August 10, 2011. Moreover, if

an attorney will appear on your behalf your notice of appearance must identify your attorney's name, address and telephone number.

You must mail your objections to all of these three different places postmarked no later than August 10, 2011:

COURT	CLASS COUNSEL	DEFENSE COUNSEL
The Honorable Geri M. Smith, Clerk United States District Court for the Northern District of Ohio, Cleveland Division 801 West Superior Avenue Cleveland, OH 44113	Dennis M. O'Toole Stumphauzer   O'Toole 5455 Detroit Road Sheffield Village, OH 44054	Tyler Mathews McDonald Hopkins 600 Superior Avenue, East Suite 2100 Cleveland, OH 44114

## When And Where Will The Court Decide Whether To Approve The Settlement?

The Court will hold a Fairness Hearing at 12:00 p.m. on August 31, 2011 in the United States District Court for the Eastern District of Ohio, Cleveland Division, which is located at 801 West Superior Avenue, Cleveland, Ohio 44113. At this hearing the Court will consider whether the Settlement is fair, reasonable and adequate. If there are objections, the Court will consider them. Judge Polster will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay Class Counsel. After the hearing, the Court will decide whether to approve the Settlement.

You may, but are not required to come to the hearing. Class Counsel will answer questions Judge Polster may have. You are welcome to come at your own expense. If you submit an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it.

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "Notice of Intention to Appear in *Thomas E. Hall, et al. v. Vitran Express, Inc.*" Be sure to include your name, address, telephone number and signature. Your Notice of Intention to Appear must be filed with the Clerk of Court no later than August 10, 2011 and be sent to the Clerk of the Court, Class Counsel, and Defense Counsel, at the three addresses listed above. You cannot speak at the hearing if you excluded yourself, nor may you speak at the hearing and object to the settlement unless you have previously filed an objection as set forth above.

## Are There More Details About The Settlement?

This Notice summarizes the proposed Settlement. More details are in the Stipulation of Settlement. A copy of the Stipulation of Settlement is available online at [www.vitranclassaction.com](http://www.vitranclassaction.com), or by writing to Class Counsel, Leonard A. Bennett, Consumer Litigation Associates, PC, Suite 201, 12515 Warwick Blvd., Newport News, VA 23606 or Dennis M. O'Toole, Stumphauzer | O'Toole, 5455 Detroit Road, Sheffield Village, Ohio 44054.

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**The case alleges three separate violations of the FCRA. One or more of these apply to you.** It is alleged that:

1. Vitran used background check consumer reports without first clearly and conspicuously disclosing to consumer's that their report would be obtained in a document consisting solely of that disclosure. You will be a member of this class whether or not there was anything incorrect with your report and whether or not Vitran ultimately hired you (15 U.S.C. §1681b(b)(2));

2. For consumers who had a negative report, Vitran was required to provide a copy of the derogatory background check and other disclosures required by the FCRA *before* it took any adverse employment action (15 U.S.C. §1681b(b)(3));

3. For most consumers who had a negative report and against whom Vitran then took an adverse employment action, Vitran was required to provide a notice *after* the adverse action that informed him or her of the FCRA right to request a free copy of the consumer report from the consumer reporting agency – with the agency's name and contact information – and the manner in which inaccurate information could be disputed (15 U.S.C. §1681m(a)).

The case is assigned to the Honorable Dan Aaron Polster.

**Why Did I Get This Notice Package?**

You have been identified as a class member from the records of Vitran and HireRight, the consumer reporting agency that provided your background check. We believe that you incurred the first two FCRA violations described above. It is alleged that Vitran used your background check without providing you the initial disclosures required by the FCRA. It is also alleged that it did not provide you a copy of your report and related disclosures before it took an adverse action against you.

According to Vitran's records, you are one of approximately 127 class members who incurred only those two FCRA violations alleged in this case.

The Court sent you this Notice because you have a right to know about a proposed Settlement of a Class Action lawsuit, and about your options, before the Court decides whether to approve this Settlement. If the Court approves the Settlement and after

objections and appeals are resolved, Vitran will distribute the benefits the Settlement allows.

**Who Are The Class Members?**

For the period from April 7, 2004 through March 13, 2009, all applicants who applied to Vitran for employment and were entitled to a disclosure of the fact that Vitran would procure a consumer report or cause a consumer report to be procured for employment purposes in writing in a document that consists solely of the disclosure. There is a subclass of individuals against whom Vitran took adverse action based in whole or in part on the consumer report without providing Pre-Adverse Action Notice and a sub-class of individuals who were declined employment without being provided an Adverse Action Notice. Excluded from the Settlement Class are any employees, officers, or directors of Vitran, any legal representatives, heirs, successors, assignees of Vitran, and any judge assigned to hear this action.

If you are not sure whether you are included in the Settlement, you can ask for free help. You can visit [www.vitranclassaction.com](http://www.vitranclassaction.com), or call Class Counsel at (440) 930-4001.

**What Are the Settlement Benefits?**

You are entitled to a cash payment of at least \$1,400.00 because you will receive at least \$700 for each FCRA violation that applies to you and it has been determined that two violations apply. This payment is *after* attorneys fees and costs that may be awarded by the Court.

**How Can I Receive Benefits?**

You will automatically receive your benefit without doing anything if the Court grants final approval of the Settlement. If you take no action you will receive a check of at least \$1,400.00. Your interests as a member of the Settlement Class will be represented by the Class Representative and Class Counsel without charge to you. You will be bound by any judgment approving or disapproving the Settlement.

**When Will I Receive My Benefits?**

The Court will hold a hearing on August 31, 2011 at 12:00 p.m. to decide whether to approve the Settlement. It will take time for the Court to make its decision and for the settlement to become final. There could be delays if there are any appeals to the Settlement. Please be patient. You can check the website, [www.vitranclassaction.com](http://www.vitranclassaction.com) for updates on the case.

**What Am I Giving Up To Stay in the Class and Receive Benefits?**

Unless you exclude yourself, you cannot sue, or be part of any other action against Vitran regarding the legal issues in this case involving the disclosure and the notices that was to precede the adverse action. This means you will give up any right to sue Vitran for any claims that you may have that are covered by the Settlement.

## How Do I Get Out Of The Settlement?

If you exclude yourself from this Settlement you do not receive any of its benefits. To exclude yourself from the Settlement, you must send a letter by mail saying that you want to be excluded from *Thomas E. Hall, et al. v. Vitran Express, Inc.*. Be sure to include your name, address, telephone number, and your signature. Also be sure to clearly identify your letter as a "Request for Exclusion from the FCRA Settlement Class." You must mail your exclusion request postmarked no later than August 10, 2011, to:

### Class Counsel

Dennis M. O'Toole  
Stumphauzer | O'Toole  
5455 Detroit Road  
Sheffield Village, Ohio 44054

### You cannot exclude yourself by telephone or by e-mail.

Unless you properly exclude yourself, you will remain a part of the Settlement Class and you give up the right to sue Vitran, for any claims covered by this Settlement.

### Who Represents You?

The Court has appointed Stumphauzer, O'Toole, McLaughlin, McGlamery & Loughman Co., LPA of Sheffield Village, Ohio and Consumer Litigation Associates, PC of Newport News, Virginia to represent you as "Class Counsel." You do not have to pay Class Counsel, or anyone else, to participate. You may hire your own attorney if you wish. However, you will be responsible for that attorney's fees and expenses. Thomas Hall is a Class Member like you, and has been appointed by the Court to be the "Class Representative."

### Will The Lawyers And Class Representatives Be Paid?

Class Counsel will ask the Court for attorney's fees and expenses of 30% of the approximately \$2,000,000.00 total settlement fund, which Vitran has agreed not to oppose. From this amount, Class Counsel will pay the reasonable fees and expenses incurred on behalf of the Class Members, together with the cost of notice and administration of the Settlement. Class Counsel will also ask the Court for a fee for the Class Representatives of \$10,000.00, for his services in this action, which Vitran will not oppose.

### How Do I Object To The Settlement?

If you do not request exclusion from the Settlement Class, you can object to any aspect of the proposed Settlement, by filing and serving a written objection. You must sign your objection personally, and it must be filed and served on the Court, Class Counsel and Defense Counsel on or before August 10, 2011, which is twenty-one (21) days prior to the Final Fairness Hearing. Moreover, your objection must contain a caption or title that identifies it as "Objection to Class Settlement in *Thomas Hall, et al. v. Vitran Express Inc.*" Your objection should also contain information sufficient to identify you, as well as a clear and

concise statement of your objection, the facts supporting your objection, and the legal basis on which your objection is based.

If you intend to appear in person or through your own attorney at the Fairness Hearing, you must file a written notice of appearance with the Clerk of Court no later than August 10, 2011. Moreover, if an attorney will appear on your behalf your notice of appearance must identify your attorney's name, address and telephone number.

You must mail your objections to all of these three different places postmarked no later than August 10, 2011:

COURT	CLASS COUNSEL	DEFENSE COUNSEL
The Honorable Geri M. Smith, Clerk United States District Court for the Northern District of Ohio, Cleveland Division 801 West Superior Avenue Cleveland, OH 44113	Dennis M. O'Toole Stumphauzer   O'Toole 5455 Detroit Road Sheffield Village, OH 44054	Tyler Mathews McDonald Hopkins 600 Superior Avenue, East Suite 2100 Cleveland, OH 44114

### When And Where Will The Court Decide Whether To Approve The Settlement?

The Court will hold a Fairness Hearing at 12:00 p.m. on August 31, 2011 in the United States District Court for the Eastern District of Ohio, Cleveland Division, which is located at 801 West Superior Avenue, Cleveland, Ohio 44113. At this hearing the Court will consider whether the Settlement is fair, reasonable and adequate. If there are objections, the Court will consider them. Judge Polster will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay Class Counsel. After the hearing, the Court will decide whether to approve the Settlement.

You may, but are not required to come to the hearing. Class Counsel will answer questions Judge Polster may have. You are welcome to come at your own expense. If you submit an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it.

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "Notice of Intention to Appear in *Thomas E. Hall, et al. v. Vitran Express, Inc.*" Be sure to include your name, address, telephone number and signature. Your Notice of Intention to Appear must be filed with the Clerk of Court no later than August 10, 2011 and be sent to the Clerk of the Court, Class Counsel, and Defense Counsel, at the three addresses listed above. You cannot speak at the hearing if you excluded yourself, nor may you speak at the hearing and object to the settlement unless you have previously filed an objection as set forth above.

### Are There More Details About The Settlement?

This Notice summarizes the proposed Settlement. More details are in the Stipulation of Settlement. A copy of the Stipulation of Settlement is available online at [www.vitranclassaction.com](http://www.vitranclassaction.com), or by writing to Class Counsel, Leonard A. Bennett, Consumer Litigation Associates, PC, Suite 201, 12515 Warwick Blvd., Newport News, VA 23606 or Dennis M. O'Toole, Stumphauzer | O'Toole, 5455 Detroit Road, Sheffield Village, Ohio 44054.

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**The case alleges three separate violations of the FCRA. One or more of these apply to you.** It is alleged that:

1. Vitran used background check consumer reports without first clearly and conspicuously disclosing to consumer's that their report would be obtained in a document consisting solely of that disclosure. You will be a member of this class whether or not there was anything incorrect with your report and whether or not Vitran ultimately hired you (15 U.S.C. §1681b(b)(2));

2. For consumers who had a negative report, Vitran was required to provide a copy of the derogatory background check and other disclosures required by the FCRA *before* it took any adverse employment action (15 U.S.C. §1681b(b)(3));

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The case is assigned to the Honorable Dan Aaron Polster.

**Why Did I Get This Notice Package?**

You have been identified as a class member from the records of Vitran and HireRight, the consumer reporting agency that provided your background check. We believe that you incurred only the first FCRA violation described above. It is alleged that Vitran used your background check without providing you the initial disclosures required by the FCRA. It is NOT alleged that it did took an adverse action against you or that your report contained negative information.

According to Vitran's records, you are one of approximately 2,000 class members who incurred only one FCRA violation alleged in this case.

The Court sent you this Notice because you have a right to know about a proposed Settlement of a Class Action lawsuit, and about your options, before the Court decides whether to approve this Settlement. If the Court approves the Settlement and after

objections and appeals are resolved, Vitran will distribute the benefits the Settlement allows.

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COURT	CLASS COUNSEL	DEFENSE COUNSEL
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